

Failure to list Creditors; technical violation of stay - foreclosure sale.
Strict compliance

**In the United States Bankruptcy Court
for the
Southern District of Georgia
Savannah Division**

In the matter of:

BETTY J. GAMBLE
(Chapter 13 Case 91-41795)

Debtor

BETTY J. GAMBLE

Plaintiff

v.

THE MONEY STORE

Defendant

Adversary Proceeding

Number 91-4112

FILED
at 9 O'clock & 49 min. AM
Date 2/21/92
MARY C. BECTON, CLERK
United States Bankruptcy Court
Savannah, Georgia

ORDER

Upon evidence being presented in the foregoing adversary matter, this
Court makes the following findings.

The Debtor is the owner of certain real property located at 909 East 40th Street, Savannah, Georgia. Said property was foreclosed on by The Money Store on September 3, 1991. On the date of the foreclosure sale, the Debtor was in a Chapter 13 bankruptcy proceeding. The sale was conducted and notice was given in compliance with Georgia law. However, The Money Store failed to obtain an order granting relief from the automatic stay pursuant to 11 U.S.C. Section 362, because Debtor had failed to list Defendant as a creditor in her case. However, based on Debtor's testimony I find no evidence of bad faith by the Debtor in failing to list The Money Store as a secured creditor in her bankruptcy petition which would justify the annulment of the automatic stay.

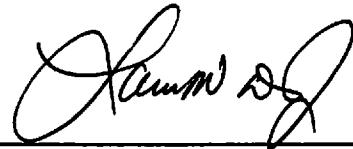
The foreclosure sale conducted by The Money Store in regard to Debtor's property located at 909 East 40th Street, Savannah, Georgia, is void since it was in technical, though not deliberate, violation of the automatic stay.

Debtor is ORDERED to make post-petition payments in strict compliance with the Promissory Note secured by the above property.

The Money Store is ORDERED to cancel the foreclosure deed to

reflect that the foreclosure was void *ab initio*, and is FURTHER ORDERED to instruct the Clerk of the Superior Court of Chatham County to cancel the deed of record.

Because of the circumstances of this case, however, I find that Debtor must strictly comply with the terms of her plan which require direct payments to Defendant. In the event of any future default by Debtor under the terms of the note or deed to secure debt, the Court will enter *ex parte* relief from the automatic stay.



Lamar W. Davis, Jr.
United States Bankruptcy Judge

Dated at Savannah, Georgia

This 19th day of February, 1992.